IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 173 of 2006

INDRA RAM CHAUDHARY & ANR.
V/S
STATE & ANR.

Mr. PS BHATI, for the appellant / petitioners

Mr. Pradeep Choudhary, for the respondent

Date of Order : 24.4.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the petitioner.

The matter comes on the application filed by the petitioner for early listing of the matter for admission. However, on the request of the learned counsel for the petitioner, the matter has been heard for admission at this stage itself.

The petitioner by this petition seeks a direction to the respondents to construct the Tar road under the Pradhanmantri Gram Sadak Yojana P.M.G.S.Y. Scheme to be altered to the extent of passing the combined school premises from outside the campus instead of going in between the schools and a further direction to consider the report of Tehsildar dated 17.11.2005 and the order of the Collector dated 26.12.2005 is also sought to be quashed.

I have heard learned counsel for the petitioner and also perused the documents.

This is second round of writ petition, inasmuch as, earlier writ petition filed being S.B. Civil Writ Petition No.6894/2005 was disposed of by this Court vide order dated 02.12.2005, noticing that the apprehension of the petitioners was that the construction of the road from the play ground will not only obstruct sports and other extra curriculum activities, so also would be a traffic hazard

and alternatives road can be made. Then it was observed that before approaching this Court, the petitioners should have given representations to the Hon'ble Ministers of the Government and, therefore, it was directed that the petitioners should submit detail representations ventilating their grievance to the Collector on or before 12.12.2005. He should consider all the contentions raised by the petitioners on or before 19.12.2005 and till disposal of such representation the Executive Engineer, P.W.D. was directed not to proceed with the construction of the proposed road.

Accordingly, the representation is said to have been made on 15.12.2005, and the impugned order Annexure-1 has been passed on 26.12.2005. It appears, that before this representation dated 15.12.2005, being Annexure-4, some other representation appears to have been submitted, inasmuch as, the learned Collector has noticed in para 2 that a detailed complaint/representation was submitted on 09.12.2005. Be that as it may, in para 2 of the contentions raised on the side of the present petitioner have been recapitulated, and then the report submitted by the PWD etc. has been considered, and in para 4 it has been noticed, that there had been a litigation in the civil court which was dismissed. That apart, thereafter another suit was filed by the residents of the village which is pending in the civil court. After considering all these circumstances, in para 5, the contentions of the petitioners have been considered, then in para 7 it has been noticed that site was inspected by himself and all relevant aspects were considered, and then the impugned order has been passed.

In my view, the impugned order cannot be said to be suffering from any such error, as will require interference by this Court under Article 226. It is a different story, that the facts, of earlier regular civil litigation having been finally decided, and another civil litigation being pending in the Court, have not even been disclosed by the

petitioner in this writ petition. Though the earlier suit was dismissed way back on 28.05.2005; likewise in the writ petition it is also not the case, that the site was not inspected by the learned Collector himself, on 15.12.2005, and it has been found that the road is being constructed at the precise place which is being used by the villagers as a way, for a very very long time. In these circumstances, I do not find any sufficient ground to interfere in the petition, filed by the petitioners.

The petition is therefore, dismissed summarily.

(N P GUPTA),J.

/ashwini/